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Before the Federal Communications Commission
Washington, D.C. 20554

In the Matter of:

North American Numbering Council
Recommendation on NANP Administrator,
Billing and Collection Agent, and Related Rules

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CC Docket 92-237

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Comments of AirTouch Communications, Inc.

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SUMMARY

Because of the critical nature of number administration, AirTouch believes the Commission should select Mitretek as the NANPA. The Commission is well aware of the importance of numbering resources to the telecommunications industry. Numbering resources, while essential to a facilities-based carrier's provision of service, must also be shared among competitors on an equitable basis. Presently, the industry is facing a shortage of numbering resources, and many states are facing "jeopardy" situations where the numbering resources in a given NPA will run out before a new NPA is available.

Given these circumstances, AirTouch believes that costs and benefits should be weighed carefully. The costs of inefficient administration are too substantial to discount. The NANC Recommendation appears to be based entirely on the difference in prices submitted by Lockheed and Mitretek, and glosses over important shortcomings in the level of resources Lockheed will commit to solving these numbering administration issues. Skimping on number administration resources will not be cost effective. The cost to individual carriers of additional resources for number administration is small when spread over the entire industry. But the cost of lost business or delayed market entry caused by the lack of available numbers is significant, both for carriers and consumers. AirTouch urges the Commission not to sacrifice policy goals for what may be illusory, short-term cost savings.

The Commission may, understandably, be reluctant to select a NANPA different from that recommended by the NANC, given that the NANC compared both proposals and that the NANC has broad representation of the telecommunications industry. But the federal statutes governing this process provide that the NANC's role is advisory only. It is the Commission who must select the NANPA, and it must do so on a reasoned basis. Moreover, the NANC Recommendation does not represent an industry consensus, but was obtained by a close vote, one which overruled the recommendation of the NANC technical experts who evaluated the proposals.

The Commission's selection of the NANPA should be guided by how well a particular proposal would meet the Commission's established goals for number administration, such as facilitating entry into the communications marketplace by making numbering resources available on an efficient, timely basis and ensuring that numbering administration is competitively and technologically neutral. The NANC Evaluation Team specifically cited Mitretek's commitment to transfer all intellectual property rights (which will mitigate future potential costs), the level of staff which will ensure timely number resource assignment, and the interest in a diversity of suppliers as the bases for its recommendation of Mitretek. These points establish a rational basis upon which to find that selecting Mitretek as the new NANPA would best serve these policy goals.

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Comments of AirTouch Communications, Inc.

AirTouch Communications, Inc. (“AirTouch”)¹, hereby submits its comments in response to the Public Notice inviting comments on the North American Numbering Council (“NANC”) recommendation to select Lockheed Martin as the new North American Numbering Plan Administrator (“NANPA”), and that the National Exchange Carrier Association (“NECA”) be selected as the billing and collection agent.

Because of the critical nature of number administration issues, AirTouch believes that the Commission should select Mitretek as the NANPA. Pursuant to the applicable law, the NANC recommendation is not binding on the Commission, who must supply an independent and reasoned basis for its selection of the NANPA. An independent examination of the merits of the proposals establishes that Mitretek’s is the superior proposal. AirTouch agrees that NECA should be selected as the billing and collection agent, provided that NECA creates an independent board as described in the recommendation.²

¹ AirTouch is one of the largest providers of cellular and paging services in the United States. Through its substantial interest in PrimeCo Personal Communications it also provides PCS services in eleven domestic markets. In addition, AirTouch owns an interest in Globalstar, a low-Earth orbit satellite-based mobile communications system that will be interoperable with terrestrial mobile and switched telephone networks.

² See NANC Recommendation at 17.

I. Effective Numbering Administration is Crucial to the Growth of Competitive Telecommunications Service Providers

The Commission is well aware of the importance of numbering resources to the telecommunications industry.³ Numbering resources, while essential to a facilities-based carrier's provision of service, must also be shared among competitors on an equitable basis. Presently, the industry is facing a shortage of numbering resources, a problem compounded by current difficulties in assigning central office codes.⁴ Some states, including California, are facing "jeopardy" situations where the numbering resources in a given NPA will run out before a new NPA is available.⁵ In those circumstances, numbers are assigned to carriers by lottery and carriers who are unable to obtain sufficient numbers must turn away customers.

Given these circumstances, AirTouch believes that costs and benefits should be weighed carefully. The costs of inefficient administration are too substantial to discount, and the Commission must ensure that the NANPA is, first and foremost, able to accomplish its tasks with the highest level of quality. The NANC recommendation of Lockheed appears to be based entirely on the difference in prices submitted by Lockheed

³See, e.g., Administration of the North American Numbering Plan, Report and Order, 11 FCC Rcd 2588, 2595 (1995)(Commission notes that CMRS providers have a greater demand for numbering resources, and that a timely and efficient NANPA is important to facilitate entry into the communications market).

⁴ The issue is that central office codes are presently assigned in blocks of 10,000 and must be associated with an existing Incumbent LEC rate center in order to ensure proper rating and routing of calls. Thus, a carrier who does not require a full block of 10,000 numbers may "tie up" the numbers in that code and exacerbate number shortages. The industry is working on a variety of solutions, but this issue is expected to be a major area of responsibility for the NANPA. See NANC Recommendation at 15.

⁵There are at least 9 NPA's in California where number assignments have been frozen and rationing measures imposed. At least 13 other NPA's are also in jeopardy situations.

and Mitretek, and glosses over important shortcomings in the level of resources Lockheed will commit to solving these numbering administration issues.

Skimping on number administration resources will not be cost effective. The cost to individual carriers of additional resources for number administration is small when spread over the entire industry. But the cost of lost business or delayed market entry caused by the lack of available numbers and inefficient number administration is significant, both for carriers and consumers. AirTouch urges the Commission not to sacrifice its policy goals for what may be illusory, short-term cost savings. The selection of the NANPA must give greater weight to the importance of effective number administration to the development of the communications industry. When these factors are properly considered, Lockheed's proposal is not cost-effective and the Mitretek proposal is clearly that which best serves the industry's needs.

II. The Commission Must Make The Selection of The NANPA Based on Independent and Reasoned Decision-Making

The Commission may understandably be reluctant to select a NANPA different from that recommended by the NANC, given that the NANC compared both proposals and that the NANC has broad representation of the telecommunications industry. But the Commission must also recognize that it is not legally bound by the NANC Recommendation. On the contrary, federal statutes provide that the NANC's role is advisory only, that the Commission must select the NANPA and do so on a reasoned basis. Moreover, the NANC Recommendation does not represent an industry consensus,

but was obtained by a close vote, one which overruled the recommendation of the NANC technical experts who evaluated the proposals.

As the Commission has noted, pursuant to the Federal Advisory Committee Act, and consistent with the NANC charter, the NANC's authority is limited to providing advice and recommendations to the Commission. See, e.g., Public Notice, May 19, 1997. Under the FACA, the NANC may develop the requirements and make an advisory recommendation, but that the ultimate selection of the NANPA must be a decision made by the Commission.⁶

Additionally, the Commission's selection of the NANPA is subject to the requirements of the Administrative Procedure Act. See, e.g., Public Notice, May 19, 1997. Under that statute, the Commission's selection must be the product of reasoned decision-making,⁷ and consider all relevant factors.⁸ The FCC must weigh the comments submitted as well as the NANC recommendation, and render an independent decision.

Moreover, the NANC decision was the result of an extraordinarily close vote, overruled the findings of the NANC panel of technical experts, and appears to value the

⁶ See 5 U.S.C., App. 2 § 9; Metcalf v. Nat. Petroleum Council, 533 F.2d 179 (D.D.C. 1977)(advisory committee exists to advise and not to decide); see also 47 U.S.C. § 251(e)(1)(“Commission shall create or designate one or more impartial entities to administer telecommunications numbering”)(emphasis added).

⁷ See, e.g., 5 U.S.C. § 706 (agency decisions will be set aside if “arbitrary and capricious”);

⁸ See, e.g., Bowman Transp., Inc. v. Arkansas-Best Freight System, Inc., 419 US 281 (1974).

competing proposals nearly equally.⁹ That is all the more reason for the Commission to undertake a thorough, independent review of the facts of each proposal, and weigh those facts against its policy objectives for numbering administration. The Commission must also consider the comments submitted in response. Meaningful consideration of the facts of each proposal demonstrates that the Mitretek proposal, supported by the NANC panel of technical experts, is in fact the superior proposal.

III. The Mitretek Proposal is Superior to the Lockheed Proposal

The Commission's selection of the NANPA should be guided by how well a particular proposal would meet the Commission's established goals for number administration. The Commission has established a number of such goals, including: 1) facilitating entry into the communications marketplace by making numbering resources available on an efficient, timely basis, and 2) ensuring that numbering administration is competitively and technologically neutral.¹⁰ The Mitretek proposal would best achieve these goals.

AirTouch is not alone in the conclusion that the Mitretek proposal is superior. Based on a detailed analysis, the NANC Evaluation Team concluded that Mitretek should be selected as the NANPA. No such rigor is apparent from the text of the full NANC

⁹ See, e.g., NANC Recommendation at 5 (NANC concludes that the proposals made by Lockheed and Mitretek presented the best solutions for the new NANPA).

¹⁰ See, e.g., NANC Recommendation at 4; Administration of the North American Numbering Plan, Report and Order, 11 FCC Rcd 2588, para. 15.

Recommendation, which simply reiterates several of the Evaluation Team's findings and reports the voting results. The NANC Recommendation reflects no discussion or analysis independent from the Evaluation Team, which found that "the significant beneficial attributes of the [Mitrotek] proposal far outweigh this concern [with the Mitrotek price]."

The Evaluation Team specifically cited Mitrotek's commitment to transfer all intellectual property rights (which will mitigate future potential costs), the level of staff which will ensure timely number resource assignment, and the interest in a diversity of suppliers as the bases for its recommendation of Mitrotek.¹¹ AirTouch agrees that these points establish a rational basis upon which the Commission should find that selecting Mitrotek as the NANPA would best serve the Commission's policy goals.

Mitrotek's proposal would best facilitate entry into the communications marketplace by making numbering resources available on an efficient, timely basis. According to the NANC Recommendation, only Mitrotek was found to have allocated sufficient levels of staff.¹² Mitrotek was also found to be superior in the quality of its staff, including the fact that it has already hired industry numbering experts, while Lockheed was found to be lacking in experienced staff necessary to meet NANPA transition time frames.¹³ Concerns were also raised about Lockheed's ability to attract

¹¹See, e.g., NANC Evaluation Team Report at 9.

¹²See NANC Recommendation at 7, 10.

¹³Id.

sufficiently qualified staff, rendering its promise to increase staff as necessarily suspect.¹⁴ Additionally, Lockheed's offer to increase staff "as necessary" suggests that Lockheed's approach is to wait until problems arise before adequate staff is hired, trained and positioned so that Lockheed can perform its number administration duties.¹⁵ Mitretek's proactive approach is superior in this respect.

Moreover, comparison of Lockheed's estimated workload with its proposed staffing levels demonstrates that the Lockheed proposal is seriously deficient and will almost certainly result in unacceptable delays in code assignments, NPA relief, and other numbering administration tasks. Lockheed's own response to the NANPA working group's questions indicate that Lockheed assumes an average of 10,000 code opening requests per year, between 30-40 NPAs requiring relief, and an average of 12 meetings per NPA relief.¹⁶ Yet Lockheed proposes a staff of 11 persons,¹⁷ which would require that each person to attend around 38 meetings per year in addition to other responsibilities; if not all staff are qualified to represent the NANPA at such meetings, the number is higher.

Adopting the Mitretek proposal would also best ensure that numbering administration is competitively and technologically neutral. The Commission should give substantial weight to the fact that selecting Mitretek as the NANPA would create a

¹⁴Id., at 6; see also NANPA Working Group Evaluation Team Report to the NANC, at 10

¹⁵See NANC Recommendation at 8.

¹⁶Letter from Greg Roberts, Lockheed to John Manning, NANPA Working Group (May 15, 1997).

¹⁷NANC Recommendation at 6. Lockheed also proposes a centralized structure, which will increase the degree of travel necessary. See Id.

diversity of suppliers. As the Commission is well aware, and as the NANPA Evaluation Team noted, diversity of suppliers is important to ensuring a competitive market for such services. Lockheed is presently already responsible for Local Number Portability administration, and also operated the 800/888 Help Desk.¹⁸ Particularly given Lockheed's reluctance to relinquish full control of any intellectual property accrued as a result of its NANPA activities,¹⁹ the Commission should select Mitretek as the NANPA.

It is obvious from the NANC Recommendation that the determining factor was the fact that Lockheed's proposed price is half that of Mitretek. But as AirTouch explained above, and as the NANC Evaluation Team agreed, number administration is too crucial to development of competitive industries -- wireless and wireline -- to select an inferior administrator on this basis. The Commission should not be penny-wise but pound-foolish with number administration. Moreover, while the differences in quality are dramatic, the cost differences between the Mitretek and Lockheed proposals are nowhere near so dramatic when properly understood.

First, Lockheed's proposal was in fact the highest cost per person, while Mitretek's cost per person was comparable to other respondents.²⁰ Moreover, the

¹⁸See Evaluation Team Report at 6. AirTouch understands that Sykes Enterprises, Inc., was selected to replace Lockheed as the provider of the 800/888 Help Desk service.

¹⁹ See Evaluation Team Report at 12. Mitretek has, in contrast, stated it will make all systems and software available to the NANC. Lockheed's failure to agree with the NANC request on this point is alone a sufficient reason to select Mitretek as the NANPA. The industry would certainly not benefit by a NANPA selection which could leave them with a Hobson's choice of retaining the initial NANPA indefinitely on one hand, or paying a new firm to "reinvent the wheel" on the other.

²⁰See Evaluation Team Report at 8, 12.

Commission's established cost recovery mechanism substantially mitigates these cost concerns.²¹ When the cost differential - \$22.5 million - is spread across the telecommunications industry and over the five year period, even crude estimates point out that the cost differential will have a minimal impact on any given carrier.

For example, based on 1995 aggregate figures, the annual difference between Mitretek's and Lockheed's proposed price constitutes an immaterial percentage of total industry annual revenues.²² For the largest incumbent LEC the difference is likely around 0.002 % of its operating revenues.²³ For smaller carriers, the difference will probably be in the hundreds of dollars.²⁴ These paltry savings cannot possibly justify inferior, inefficient, and in the long run, potentially more costly number administration.

²¹The Commission has established that the costs of number administration shall be recovered from all telecommunications carriers, with each carrier's share allocated on the basis of its gross telecommunications revenues (less payments from other carriers). Local Competition Provisions of the 1996 Act, CC Docket 96-98, Second Report and Order, 11 FCC Rcd 19392, para. 343.

²²Total carrier revenues for 1995 were \$199 billion; subtracting out \$34 billion in access charges yields total revenues of \$165 billion. See "Telecommunications Industry Revenue: TRS Fund Worksheet Data," Industry Analysis Division, Common Carrier Bureau, Table 3 (Dec. 1996). \$22.5 million/5 years = \$4.5 million. \$4.5 million/\$165 billion = \$0.00027%.

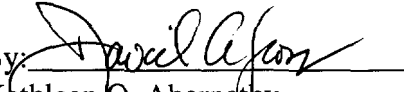
²³ The 1996 U.S. Telephone. Assn. "Phone Facts" lists BellSouth as the largest incumbent LEC, with annual operating revenues of \$13,900,610,000. BellSouth's share of the total \$199 billion revenue figure is therefore around 6.9%. BellSouth's annual share of the cost difference between Lockheed and Mitretek would therefore be \$310,500, which is 0.002% of BellSouth's annual revenues. This estimate is particularly conservative, because it does not subtract out access charges revenue, which is a significant portion of an ILEC's revenue stream. When access charge revenue is subtracted out, BellSouth's share of the total \$165 billion -- and thus its share of number administration costs -- may well be smaller than 6.9%

²⁴For a carrier with \$5 million in revenues, or .0025% of total industry annual revenues, the additional cost of Mitretek's proposal to that carrier will be \$562.5 per year.

CONCLUSION

AirTouch recommends that the Commission undertake its own independent analysis before selecting the new NANP Administrator. The Commission should give significant weight to the recommendations of the NANC Evaluation Team and the points raised herein, and select Mitretek as the new NANP Administrator.

Respectfully submitted,

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